MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2021/2022

UFL1612 - FAMILY LAW

(All Sections / Groups)

23 APRIL 2022
Reading Time : 9:15am – 9:30am
(15 Minutes)
Answering Time: 9:30am – 12:30pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt **FOUR** out of **FIVE** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring the Law Reform (Marriage and Divorce) Act 1976 into the examination hall.

5. Please write all your answers in the Answer Booklet provided.

COMPULSORY QUESTIONS (ANSWER ALL QUESTION)

QUESTION 1

In Malaysia, there are no specific provisions of law relating to the issue of promise to marry. The breach of promise to marry is dealt under Contract law. In order to enforce the promise, it does not require any written agreement or mutual promise which is expressly worded but it is sufficient enough as long there is evidence of consideration to create the promise.

Therefore, once a breach of promise is proved, it is for the defendant to forward any valid defence to forestall further action. Discuss the defences available for the defendant.

(25 marks)

QUESTION 2

Ah Kow married Ah Moi according to the Chinese customary law in 1980. The wedding was celebrated with both families with a tea ceremony and a grand dinner. Not long after that, they were blessed with a beautiful daughter. In January 1983, Susie, a Chinese national joined Ah Kow's company as an intern for 2 years. Ah Kow was tasked to supervise her works. In December 1983, Ah Kow proposed to Susie. Susie was very happy and accepted his proposal right away. Susie wanted to invite her family from China for the wedding, nevertheless Ah Kow opposed to the idea and promised that they would visit her family after the wedding. In February 1984, Ah Kow took Susie to a Buddhist temple where they solemnised their marriage. Susie wanted to apply for a dependent visa and asked Ah Kow for the certificate of marriage. Ah Kow explained that their marriage was following the Chinese custom at the Buddhist temple, thus there was no requirement to have the marriage to be registered. Ah Kow produced a statutory declaration pertaining to the wedding, including the particulars of the priest and the name of the temple. Susie took the said document to the Immigration Department but was informed that her marriage was not recognised.

Based on the above facts, explain to Ah Moi and Susie as to the status of their marriage.

(25 marks)

Continued…

ANSWER ONLY TWO (2) QUESTIONS

QUESTION 3

Tan Sri Johnny is one of the richest men in Malaysia. He has a daughter, Joline. He wants Joline to marry David, the son of Tun Robert, his peer in terms of wealth. He believes that this marriage will secure their status and enhance their wealth. He told Joline about his plan, but Joline did not agree since she did not love David. She is in love with Trevor, her childhood sweetheart. Unfortunately, Trevor was not born from a wealthy family. Tan Sri Johnny suspected that Trevor is a gold digger and did not approve their relationship. Her father threatened to cut her off if she refused to marry David and insisted that she cannot live on love alone. She needs money to be happy and David, with his father's wealth, could ensure that. Since Joline is financially dependent on her father, she did not have any say against the decision of her marriage. Later, Joline and David were married in a church and followed with a grand reception. After the marriage, Joline confessed to David that she is in love with Trevor and refused to consummate the marriage. David told his father about this, nevertheless the father advised him to be patient and asked David to give Joline some space and time. After 4 months had passed, the marriage has yet to be consummated.

David also found out that Joline continued to meet Trevor and they had sexual intercourse. David confronted Joline and mentioned that he wants to end the marriage.

Based on the facts, classify the grounds for David to dissolve the marriage.

(25 marks)

QUESTION 4

Marshal and Lily has been married for 1 year. They have a son, 11 months old Marvin. Marshal wanted to apply for a housing loan. When he consulted the officer at Bank Berhad, he was shocked to discover that there was a sizable debt under his name from several credit cards that he was not aware of. Later, he discovered that Lily registered for the credit cards behind his back. She also hid all the credit collection letters from the Bank that reached their house. Since Lily is a fulltime housewife, Marshal must work several jobs until late night to pay for the debts, which has exhaust him daily and the couple fought with each other all the time.

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Despite their condition, Lily continued to spend money for unnecessary items and neglect their child due to constant internet browsing. Marshal reached a breaking point when Lily used the credit card to purchase a RM5,000 handbag and left Marvin in his crib with an unchanged diaper for 6 hours. He has the intention to leave Lily and take Marvin with him as the situation becomes unbearable.

Marshal seeks your advice on

(1) whether he can dissolve the marriage and
(2) whether he can have custody of Marvin.

Apply the facts according Law Reform (Marriage and Divorce) Act 1976 and decided cases.

(25 marks)

QUESTION 5

i) Desertion consists of the unjustifiable withdrawal from cohabitation without the consent of the other spouse and with the intention of remaining separated permanently.

Briefly discuss the elements that must be present before the desertion can be proved.

(12.5 marks)

ii) As a result of a judicial separation between Ross and Rachel, Ross has been ordered to pay monthly maintenance of RM 300 for his child, Emma who is 6 years old. Since Emma will officially start her primary school at Standard 1 next year, Rachel wants to know if she can request for an increase in the maintenance order to include school related expenses. Furthermore, Ross has neglected to pay maintenance for the past 6 months which has caused financial burden to Rachel.

Assess Rachel's situation based on Law Reform (Marriage and Divorce) Act 1976 and decided cases.

(12.5 marks)
(Total: 25 marks)

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